IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.568 OF 2007
IN
WRIT PETITION NO.846 OF 2007

P.A.Thakore. ..Petitioner.

V/s.

M.M.Sapre & Ors. ..Respondents.

Mr.S.C.Naidu a/w S.R.Ingule & Ms. Kokila Kalra i/b. C.R.Naidu & Associates for petitioner.

Mr. Pradeep Jadhav, AGP for respondent No.2.

Ms. Ashlesha Gondhalekar a/w. Anup Bakshi for respondent No.1.

CORAM: A.M.KHANWILKAR,J

DATE : DECEMBER 14, 2007.

P.C. :

1. Heard Counsel for the parties. Perused the Order dated 16th July, 2007 and 16th October, 2007. It is not in dispute that the Respondent No.1 has succeeded before the lower authority. There is already order in favour of the Respondent No.1, which indeed, has been stayed by this Court on condition. The Petitioner has complied with that condition by depositing amount of Rs.33,520/-. The question whether the Petitioner would be eventually liable to pay that amount or the Respondent No.4, can be answered at the hearing of the Petition. In any

case, one of the party namely Petitioner or the Respondent No.4 will be liable to pay the said amount. In the circumstances, in the interest of justice, I propose to pass following order which will subserve the ends of Justice.

2. The Respondent No.1 is allowed to withdraw the sum of Rs.33,520/- already deposited by the Petitioner in this Court in terms of the Order dated 16th July, 2007, on condition that the Respondent No.1 shall file undertaking that he will bring back the said amount alongwith interest, if the Court so directs at the end of the hearing of this petition. Besides, the Respondent No.1 shall furnish suitable surety in the like amount to the satisfaction of the Prothonotary and Senior Master, High Court, Bombay.

3. In the event, the Petitioner succeeds in the Writ Petition and the Court were to hold that the Respondent No.4 would be liable to pay the specified amount, it will be the responsibility of the Respondent No.4 to reimburse that amount to the Petitioner. In any case, that matter can be addressed at the appropriate stage and direction can be issued to the concerned party.

4. In the event, the Court were to hold that the award has been passed without jurisdiction by the lower authority, it would necessarily follow that the Respondent No.1 will have to bring back the amount withdrawn as aforesaid alongwith appropriate interest, as may be decided by the Court in terms of the undertaking filed before this Court, as referred to above.

5. Motion disposed of on the above terms.

(A.M.KHANWILKAR,J)